



STATE OF LOUISIANA
DEPARTMENT OF STATE CIVIL SERVICE
LOUISIANA BOARD OF ETHICS

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October 27, 2011

Mr. John M. Spain
Executive Vice President
Baton Rouge Area Foundation
402 North Fourth Street
Baton Rouge, LA 70802

Re: Ethics Board Docket No. 2011-1315

Dear Mr. Spain:

The Louisiana Board of Ethics, at its October 20, 2011 meeting, considered your request for an advisory opinion regarding whether the Baton Rouge Area Foundation (BRAf) or The Water Institute of the Gulf's Delta (the "Water Institute") may pay for the travel expenses of a proposed delegation to The Netherlands to study the possibility of creating a new coastal research center for Louisiana.

The Baton Rouge Area Foundation (BRAf), a Louisiana not-for-profit corporation exempt from federal income taxation under section 501(a) of the Internal Revenue Code of 1986, as an organization described in Code section 501(c)(3), and a publicly supported organization described in Code section 509(a)(1), is working with state and federal authorities to create a new scientific research facility to focus on the loss of Louisiana's coastline and provide scientific based solutions for our elected officials and state agencies.

According to your opinion request, the best model for the proposed institute is Deltares, a leading independent, Dutch-based research institute and specialist consultancy for matters relating to water, soil, and the subsurface, which conducts research and provides specialist advisory services for government authorities and the corporate sector in The Netherlands and globally. As a result BRAf, or their affiliate organization, The Water Institute (also a not-for-profit corporation), are prepared to pay all travel expenses of a delegation to The Netherlands to visit Deltares. Such a trip would ensure Louisiana lawmakers and key state employees have a better understanding of the importance of an organization such as Deltares and would allow the delegation to study firsthand water management policies of The Netherlands.

The opinion request also states that neither BRAf nor the Water Institute engage in lobbying nor do they have an economic interest in the creation of the proposed institute. In addition, neither organization has contracts or does business with any individual legislator or state employee who would be invited. BRAf is working in cooperation with the state Coastal Protection and Restoration Authority (CPRA) to develop the institute and is doing so without compensation.

The persons who would be invited to take part in The Netherlands trip to evaluate the Deltares model are key legislators, and employees of the CPRA. If a conflict does not exist then the legislators or

employees respective agency or department (House of Representatives, Senate or appropriate State agency) would pay the expenses in accordance with state travel policies. Then upon completion of the trip BRAF or the Water Institute would voluntarily reimburse the appropriate state agency or departments the cost of the trip for each of the respective public servants.

The Board concluded, and instructed me to advise you, that the Code of Governmental Ethics would not prohibit the agencies or departments of the public servants set out in your request from being reimbursed for travel expenses associated with the aforementioned trip. Section 1115 of the Code prohibits public employees from soliciting or accepting a thing of economic value from a prohibited source.

Prohibited sources for public servants (which include elected officials and public employees) are persons who has or is seeking a contractual, business, or financial relationship with the public servant's agency; or a person who is seeking for compensation, to influence the passage or defeat of legislation by the public servant's agency. Public employees have two additional persons who are considered prohibited sources of gifts which includes a person who conducts operations or activities which are regulated by the public employee's agency, or a person who has a substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official duty. Considering the facts given it appears as though BRAF and The Water Institute are not prohibited sources so long as neither is regulated by the public agency of an employee whose trip costs will be reimbursed.

Section 1111A of the Code also provides applicable prohibitions. Section 1111A of the Code states that no public servant shall receive anything of economic value, other than the compensation and benefits he is entitled from his governmental employer, for the performance of the duties and responsibilities of his office or position. Thus payment of the travel expenses would appear to be prohibited, however, the Ethics Board in Docket No. 1997-656 is applicable in a situation where a person, who is not a person from whom the public servant is prohibited from receiving or accepting a gift pursuant to Section 1115, makes a donation of funds to the public servant's agency. In such an event, an entity that is not prohibited by Section 1115 from giving a public servant a gift, may make a donation of funds to the public servant's agency, which, in turn, the agency may use to reimburse the public servant's travel expenses. Therefore, since BRAF and the Water Institute are not prohibited sources of gifts then they may make an unconditional donation to the agencies in question, which the agency may use for reimbursement of said travel expenses

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts presented may result in a different application of the provisions of the Code of Ethics. The Board issues no opinion as to past conduct or laws other than Code of Governmental Ethics. If you have any questions, please contact me at (225) 219-5600 or (800) 842-6630.

Sincerely,
LOUISIANA BOARD OF ETHICS

A handwritten signature in dark ink, appearing to read "Brent E. Durham", with a long horizontal flourish extending to the right.

Brent E. Durham
For the Board